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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

Case No. 2009-3

14 **MICHAEL SEAN RODRIGUEZ**
10 Homewood Avenue
15 Napa, California 94558

A C C U S A T I O N

16 Registered Nurse License No. RN 592983

17 Respondent.
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19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
23 Affairs.

24 **License History**

25 2. On or about January 7, 2002, the Board issued Registered Nurse License
26 Number RN 592983 ("license") to Michael Sean Rodriguez ("Respondent"). The license expired
27 on June 30, 2003, and has not been renewed.

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CAUSE FOR DISCIPLINE

(Out-of-State Discipline)

8. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent's nursing license has been disciplined by the State of Washington, Department of Health, Nursing Quality Assurance Commission ("Washington Board"). Effective December 6, 2007, in the case entitled, *In the Matter of: Michael S. Rodriguez, Credential No. RN 00147746*, Case No. 07-07-A-1105RN, pursuant to the Findings of Fact, Conclusions of Law, and Final Order of Default, Respondent's Credential No. RN00147746 was suspended and Respondent was ordered not to submit a petition for reinstatement of credential for at least sixty (60) months from the effective date of the Order. A copy of the Washington Board's Findings of Fact, Conclusions of Law and Final Order of Default is attached as **Exhibit A**, and is incorporated herein. The circumstances underlying the disciplinary action are that on or about April 17, 2007, Respondent was convicted of Assault in the Second Degree, a class B Felony, in the Superior Court of Washington for Snohomish County, Case No. 07-1-00268-0.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 592983 issued to Michael Sean Rodriguez;
2. Ordering Michael Sean Rodriguez. to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/1/08



RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

Exhibit A
Washington Board's Findings of Fact,
Conclusions of Law and Final Order of Default

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE COMMISSION**

In the Matter of

MICHAEL S. RODRIGUEZ
Credential No. RN00147746

Respondent.

Docket No. 07-07-A-1105RN

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL ORDER OF DEFAULT
(Failure to Respond)**

This matter comes before the Health Law Judge, Presiding Officer for Final Order of Default. Based on the record, the Presiding Officer, on designation by the Nursing Care Quality Assurance Commission (Commission), now issues the following:

1: FINDINGS OF FACT

1.1 On December 11, 2002, the state of Washington issued Respondent a credential to practice as a registered nurse. Respondent's credential expired on May 14, 2007.

1.2 The Commission has filed the Declaration of Irene Oplinger, Health Services Consultant with attached exhibits.

1.3 On or about April 17, 2007, Respondent was convicted of Assault in the Second Degree, a class B felony, in the Superior Court of Washington for Snohomish County, case no. 07-1-00268-0.

1.4 On October 17, 2007, the Commission served Respondent with a copy of the following documents at Respondent's last known address:

- A. Statement of Charges;
- B. Notice of Opportunity for Settlement and Hearing;
- C. Answer to Statement of Charges and Request for Settlement and Hearing;
- D. Stipulated Findings of Fact, Conclusions of Law, and Agreed Order.

1.5 The Answer to the Statement of Charges was due in the Adjudicative Service Unit by November 6, 2007.

ORIGINAL

1.6 To date, the Adjudicative Service Unit has not received an answer to the Statement of Charges. On November 16, 2007, the Adjudicative Service Unit issued a Notice of Failure to Respond.

1.7 The Commission has no reason to believe Respondent is now or was in active military service, or a dependent of a person in active military service at the time the Statement of Charges was served.

2: CONCLUSIONS OF LAW

2.1 The Commission has jurisdiction over Respondent and over the subject matter of this case. RCW 18.130.040.

2.2 Respondent did not file a response to the Statement of Charges within the time allowed. WAC 246-11-270(1)(a)(i) or WAC 246-11-270(3). Respondent is in default and the Commission may issue a final order based on the evidence presented. RCW 18.130.090(1) and RCW 34.05.440.

2.3 Based upon the Findings of Fact, Respondent has committed unprofessional conduct pursuant to RCW 18.130.180(1) and (17).

2.4 Sufficient grounds exist to take disciplinary action against Respondent's credential. RCW 18.130.160 and 18.130.180.

3: ORDER

The COMMISSION ORDERS:

3.1 Respondent's credential to practice as a registered nurse in the state of Washington is **SUSPENDED**.

3.2 Respondent shall immediately return all credential to the Commission within ten (10) days of receipt of this Order.

3.3 Respondent may not submit a written petition for reinstatement of credential for at least sixty (60) months from the effective date of this Order.

3.4 Respondent shall assume all costs of complying with this Order.

3.5 If Respondent violates any provision of this Order in any respect the Commission may take further action against Respondent's credential.

3.6 The effective date of this Order is that date the Adjudicative Service Unit places the signed order into the U.S. mail. Respondent shall not submit any fees or compliance documents until after the effective date of this Order.

4: NOTICE TO PARTIES

This Order is subject to the reporting requirements of RCW 18.130.110, Section 1128E of the Social Security Act, 45 CFR Part 61, and any other applicable interstate/national reporting requirements. If adverse action is taken, it must be reported to the Healthcare Integrity Protection Data Bank.

Either Party may file a **petition for reconsideration**. RCW 34.05.461(3); 34.05.470. The petition must be filed within ten (10) days of service of this Order with:

Adjudicative Service Unit
PO Box 47879
Olympia, WA 98504-7879

and a copy must be sent to:

State of Washington
Department of Health
Nursing Care Quality Assurance Commission
PO Box 47864
Olympia WA 98504-7864

The petition must state the specific grounds upon which reconsideration is requested and the relief requested. The petition for reconsideration is considered denied twenty (20) days after the petition is filed if the Adjudicative Service Unit has not responded to the petition or served written notice of the date by which action will be taken on the petition.

A petition for judicial review must be filed and served within thirty (30) days after service of this Order. RCW 34.05.542. The procedures are identified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the thirty (30) day period will begin to run upon the resolution of that petition. RCW 34.05.470(3).

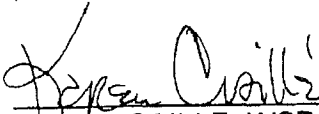
The Order remains in effect even if a petition for reconsideration or petition for review is filed. "Filing" means actual receipt of the document by the Adjudicative Service Unit. RCW 34.05.010(6). This Order was "served" upon you on the day it was deposited in the United States mail. RCW 34.05.010(19).

DATED: December 6, 2007.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE
COMMISSION


HEALTH LAW JUDGE

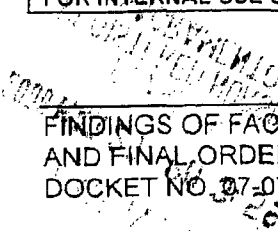
PRESENTED BY:


KAREN CAILLE, WSBA # 31351
DEPARTMENT OF HEALTH STAFF ATTORNEY

November 30 2007
DATE

FOR INTERNAL USE ONLY:

PROGRAM NO. 2007-01-0027RN


FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND FINAL ORDER OF DEFAULT (Failure to Respond)
DOCKET NO. 07-07-A-1105RN

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